

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 95-82
) RM-8630
Table of Allotments,)
FM Broadcast Stations)
(Monticello, Perry, Quincy, Woodville,)
Springfield, Appalachicola, and)
Trenton, Florida))

DOCKET FILE COPY ORIGINAL

To: Chief, Allocations Branch

COMMENTS AND COUNTERPROPOSAL
of
GREAT SOUTH BROADCASTING, INC.

Gary S. Smithwick
SMITHWICK & BELENDIUK, P.C.
1990 M Street, N.W.
Suite 510
Washington, D.C. 20036
(202) 785-2800

Counsel for

GREAT SOUTH BROADCASTING, INC.

August 10, 1995

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SUMMARY OF PLEADING

This pleading constitutes the Comments and Counterproposal of Great South Broadcasting, Inc. ("Petitioner"), licensee of WXSR(FM), on the Commission's *Notice of Proposed Rule Making ("NPRM")*, DA 95-1263, released June 19, 1995, that proposed to reallocate Channel 268C2 from Quincy to Woodville, Florida, and modify the license of WXSR to operate at Woodville. Petitioner herein supports its original proposal and provides the following options as a Counterproposal:

Option I

Proposed Changes to the FM Table of Allotments

Channel No.

City	Present	Proposed
Quincy, Florida	268C2	268C1
Monticello, Florida	270C3	289C3
Perry, Florida	288A	221A
Springfield, Florida	267A	266A
Appalachicola, Florida	265A	263C3 or 263A
Trenton, Florida	269C2	269A or 269C3

Option II

Proposed Changes to the FM Table of Allotments

Channel No.

City	Present	Proposed
Woodville, Florida	None	268C1
Quincy, Florida	268C2	None¹
Monticello, Florida	270C3	289C3
Perry, Florida	288A	221A
Springfield, Florida	267A	266A
Appalachicola, Florida	265A	263C3 or 263A
Trenton, Florida	269C2	269A or 269C3

¹ Full time standard broadcast station WWSD will remain licensed to Quincy.

Herein, Petitioner shows why either of the above Options would result in a preferential arrangement of allotments.

The proposal described in the *NPRM* would bring a first local service to Woodville, Florida, a goal favored under Priority (3) of *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 92 (1982). Additionally:

- Adoption of Counterproposal Option I would permit WXSJ to remain licensed to Quincy, Florida, while upgrading WXSJ to Class C1 with an increase in areas and populations served;
- Adoption of Counterproposal Option II would permit an upgrade for WXSJ while bringing first local service to Woodville;
- Adoption of Option I or Option II would permit WYOO to operate with maximum facilities, serving additional areas and populations; and
- Further, adoption of Option I or Option II would be a more efficient use of spectrum than permitting the licensee of WDJY, Trenton, Florida, to continue to "warehouse" spectrum that Petitioner seeks to utilize.

Petitioner has agreed to reimburse the licensees of the stations whose channels are affected, and Petitioner states it will promptly implement the upgrade for WXSJ if the Commission makes the suggested substitutions.

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To: Chief, Allocations Branch

COMMENTS AND COUNTERPROPOSAL
of
GREAT SOUTH BROADCASTING, INC.

Great South Broadcasting, Inc. ("Petitioner"), licensee of WXS(FM), Quincy, Florida, hereby submits its Comments and Counterproposal in response to the Commission's *Notice of Proposed Rule Making ("NPRM")*, DA 95-1263, released June 19, 1995.

Comments and Counterproposals are due by August 10, 1995, so this pleading is timely filed.

BACKGROUND

In the *NPRM*, the Commission proposed to substitute Channel 268C2 at Woodville, Florida, for existing Channel 268C2 at Quincy, Florida, with the modification of license of WXS(FM) for operation on Channel 268C2 as a first local service to Woodville. Since the use of Channel 268C2 at Woodville is mutually exclusive with its use at Quincy, under Section 1.420(i) of the Commission's Rules, the Commission may modify the license of WXS(FM) to specify Woodville as its community of license without affording other parties an opportunity

to file competing expressions of interest.² Woodville is not in an Urbanized Area as defined by the U.S. Census Bureau, and the reallocation of Channel 268C2 will not deprive Quincy of its only local full time service, since full-time standard broadcast station WWSD (1230 kHz), will remain licensed to Quincy.³ In its Petition for Rule Making, Petitioner showed that Woodville is a community deserving of its own local radio station; however, the Commission was unable to determine whether Petitioner's proposal would result in a preferential arrangement of allotments. The Commission requested the Petitioner to submit additional information as to the overall public interest benefits that would be advanced from a grant of this proposal. Additionally, the Commission requested Petitioner to provide information showing the areas and populations that would lose existing service if WXSX is reallocated to Woodville, and the number of reception services which are now available with the gain and loss areas.

Attached hereto is a Technical Statement⁴ that provides information responsive to the Commission's questions, and supports Petitioner's Counterproposal that is being submitted herein. It should be noted that this Counterproposal is independent of the original proposal advanced herein. If the Commission should determine not to adopt any of the requests made in the Counterproposal, Petitioner will still promptly apply for a minor change construction

² See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

³ At the time Petitioner filed its Petition for Rule Making (April 6, 1995), an outstanding unbuilt construction permit for WTPS(FM), on Channel 264A, was also considered as "potential service" to Quincy. In the intervening period, the Commission, in *Report and Order, Midway, Panacea and Quincy, Florida*, DA95-1221 (MM Docket No. 93-229), released June 9, 1995, ordered WTPS to Channel 264C3 and changed its community of license to Midway, Florida.

⁴ Exhibit 1.

permit to operate WXSJ on Channel 268C2 at Woodville, and upon grant thereof, will promptly operate WXSJ on Channel 268C2 at Woodville.

In order to accommodate the allotment of Channel 268C2 at Woodville, Petitioner requested the substitution of Channel 289C3 for Channel 270C3, the modification of license of WJPH(FM) at Monticello, Florida; and the substitution of Channel 221A for Channel 288A and the modification of license of WNFK(FM), at Perry, Florida. The licensees of WJPH and WNFK executed agreements, copies of which were filed with the petition for rule making, consenting to the substitution of channels and modification of licenses at their respective communities, and Petitioner agreed to reimburse them for making the channel substitutions.

COMMENTS ON NPRM

In response to the specific questions set forth in the *NPRM*, the Petitioner shows the following: The Technical Statement indicates that the Petitioner would most likely use its existing tower site for WXSJ for Channel 268C2 at Woodville; therefore, no actual site change would be necessary. As a result, no loss of service would result. The Technical Statement shows that WXSJ would provide a principal community grade signal to Woodville from its presently licensed site.

The residents of Quincy will continue to receive service from WXSJ since no site relocation is necessary. Therefore, the Commission's concern as to public expectation of continuing service from WXSJ is satisfied.

Additionally, if either counterproposal option is adopted, there will, in effect, only be a net gain in service from WXSJ, and no net loss.

COUNTERPROPOSAL

Option I - Channel 268C1 at Quincy, Florida

As described in the Technical Statement, Channel 268 can be retained in Quincy as a Class C1 facility, rather than Class C2. Channel 268C1 can be allotted to Quincy with a site restriction of 47.6 kilometers south-southeast of Quincy. This is possible with the proposed channel substitutions at Monticello and Perry as proposed in the original petition for rule making. In addition, other changes to the table of allotment are necessary. It is necessary to downgrade a station that is "warehousing" spectrum, and to substitute an additional channel to accommodate the WXSX upgrade.

Downgrade of WDJY, Trenton, Florida

Station WDJY (formerly WCWB), is licensed to Florida Radio Partners, Inc. ("FRPI"). WDJY operates on Channel 269A at Trenton, Florida, and received an upgrade in MM Docket No. 93-118 to operate on Channel 269C2.⁵ The channel change became effective October 7, 1993, and the licensee of WDJY was ordered within 90 days of the effective date (i.e., by January 7, 1994), to file a minor change application for construction permit to upgrade WDJY to Channel 269C2. The Commission's records do not reveal that any such application has been filed. Instead, the records show that on March 17, 1995, more than a year following the deadline, the Commission's FM Examiners received a woefully late-filed letter⁶ dated March 2, 1995, from FRPI requesting that the deadline to file an application for construction permit to upgrade to Channel 269C2 be extended to September

⁵ See *Report and Order, Trenton, Florida*, 8 FCC Rcd 6159 (DA 92-883), released August 23, 1993.

⁶ Copy attached as Exhibit 2.

15, 1995. FRPI based its request on its acquisition of WDJY on November 9, 1993. FRPI claimed that since acquiring WDJY, FRPI has been:

"busy assuming control of the station, and making technological improvements necessary to improve the quality of the signal to be competitive in its market. Since the upgrade requires a change of transmitter site, FRPI has also been actively engaged in the search for a suitable site. To date, we have surveyed several potential locations, all of which have wetlands or zoning constraints. We continue to search for a suitable site and believe we will be successful within the next 180 days."

That statement may have been true in March, 1995, but circumstances have changed such that the statement is apparently no longer indicative of WDJY's intent. Commission records show that an application, File No. BALH-950418GO, was granted July 28, 1995, giving FCC consent to assignment of the license of WDJY to Pinnacle Broadcasting, Inc. Rather than "making technological improvements," it appears that FRPI has been busy selling the station, and in the meantime, "warehousing" the Class C2 frequency. The Commission has made it clear that failure to implement an upgrade in facilities in a timely manner constitutes "warehousing" of unused spectrum to the preclusion of other potential users seeking to provide additional broadcast service to the public. Granting FRPI's request would result in "warehousing" the frequency from January 7, 1994, to September 15, 1995. Add to that 20-month period, the approximate four month wait involved in acting on a minor change application, and the 18-month construction period, and Channel 269C2 at Trenton could lie fallow for 42 months! Such "warehousing" is prima facie contrary to the public interest.

By failing to file an application to upgrade to Channel 269C2 within 90 days as ordered by the Commission, WDJY lost its cut-off protection against conflicting rulemaking proposals. Accord, Conflicts Between Applications and Petitions for Rulemaking, 7 FCC Rcd 4917 (1992). Thus, WDJY's unfilled Class C2 allotment must result in FRPI being made a party to this allocation rulemaking proceeding seeking to downgrade the Channel

269C2 Trenton, Florida, allotment. See *Letter to Angelina Broadcasting Corporation*, dated June 9, 1993, copy attached at Exhibit 3. Since WDJY's vacant allotment precludes a Class C1 upgrade for WXSX, Petitioner requests the Commission to make the licensee of WDJY a party to this proceeding to afford WDJY an opportunity to show cause why the allotment of Channel 269C2 at Trenton should not be downgraded to Channel 269A. Therefore, Petitioner requests the deletion of Channel 269C2 at Trenton, Florida, and an amendment to Section 73.202(b) of the Rules (Table of Allotments) to reflect Channel 269A in lieu of Channel 269C2 at Trenton.

While Channel 269C2 impedes the allotment of Channel 268C1 for use by WXSX, the attached Technical Statement shows that an alternate upgrade is still available for WDJY. Channel 269C3 can be allotted to Trenton, Florida, with a site restriction of 10.2 kilometers west of Trenton at reference coordinates North Latitude 29° 36' 44", West Longitude 82° 55' 18". From this location, a 3.16 mV/m signal will be delivered over Trenton. WDJY as a Class A station provides service to 30,505 persons. A Class C3 facility at Trenton would potentially provide service to 41,564 persons, which is an increase of 11,059 persons (about 27%) over the number served by the Class A facility. The allotment of Channel 269C2 at Trenton would have provided service to only 45,424 persons (about 33% gain over the Class A facilities), so the net gain of population to be realized from the Class C2 allotment when compared to the Class C3 allotment is small (only about 5%). In response to the Order to Show Cause, the licensee of WDJY could indicate whether it would accept a Class C3 allotment in lieu of a downgrade to Class A status.

Since WDJY has not implemented its channel change, no reimbursement by Petitioner is required; however, if the Commission should determine that Petitioner must reimburse the

licensee of WDJY, Petitioner will do so pursuant to *Circleville, Ohio*, 8 FCC 2d 159 [9 RR 2d 1579] (1967).

Substitution of Channels at Springfield, Florida

Channel 266A can be substituted for Channel 267A at Springfield, Florida, at the reference site for WYOO, Springfield. Petitioner is requesting the Commission to issue to the licensee of WYOO an Order to Show Cause why its channel should not be changed. Petitioner will reimburse the licensee of WYOO for its reasonable and prudent expenses involved in the channel exchange, under the requirements set forth in *Circleville, Ohio, supra*.

Allotment Reference Point

Channel 268C1 can be allotted to Quincy at reference coordinates North latitude 30° 10' 22", and West longitude 84° 26' 52", with a site restriction 47.7 kilometers south-southeast to avoid shortspacing several existing FM facilities. From the reference site, a 3.16 mV/m contour will be delivered over Quincy, Florida. However, please note that once the allocation of Channel 268C1 is made at Quincy, Petitioner could use its existing transmitter site operating under Section 73.215 of the Rules with 86.0 kilowatts ERP and antenna center of radiation 143 meters above average terrain. The WXSJ facilities used for comparison assume the use of the existing WXSJ transmitter site.

WOYS, Appalachicola, Florida

It should be noted that the licensee of WOYS(FM), Channel 265A at Appalachicola, Florida, has filed a one-step application (File No. BMPH-940617IZ) to upgrade WOYS to

operate on Channel 263C3 at Appalachicola.⁷ The removal of Channel 265A accommodates the allotment of Channel 268C1 at Quincy. Out of an abundance of caution, Petitioner shows herein that if the WOYS application is not granted, Channel 263A can be allotted to Appalachicola at the present WOYS transmitter site. In that unlikely event, and if required by the Commission, Petitioner would reimburse the licensee of WOYS for the costs involved in moving from Channel 265A to Channel 263A. Petitioner would not incur any liability for the costs of moving WOYS under any other circumstances.

Therefore, Petitioner, in Option I, requests the following modification to Section 73.202(b) of the Rules:

FM Table of Allotments

City	Channel No.	
	Present	Proposed
Quincy, Florida	268C2	268C1
Monticello, Florida	270C3	289C3
Perry, Florida	288A	221A
Springfield, Florida	267A	266A
Appalachicola, Florida	265A	263C3 or 263A
Trenton, Florida	269C2	269A or 269C3

PUBLIC INTEREST FACTORS-OPTION I

The substitution of Channel 268C1 for Channel 268C2 at Quincy, Florida, will enable WXSR to upgrade and provide expanded service. WXSR operating as a Class C1 facility

⁷ By letter dated May 1, 1995, the Commission wrote the licensee of WOYS stating that the application was in conflict with MM Docket No. 91-348 and the proposal of EME Communications to allot Channel 263A to Panacea, Florida. The Commission stated that it would take no further FCC action on the WOYS application pending action on the rule making proceeding. By ***Report and Order, Midway, Panacea, and Quincy, Florida***, PA 95-1221 (MM Docket 93-229), released June 9, 1995, the Commission dismissed the proposal to allot Channel 263A to Panacea, and substituted Channel 264C3 at Midway for Channel 264A at Quincy, Florida. The changes became effective July 24, 1994. Thus, there is no longer an impediment to the grant of File No. BPH-940617IZ.

will provide predicted 1 mV/m service to 315,679 persons within 9,892.2 square kilometers, representing an increase of 24,064 persons in 1,649.5 square kilometers over its present licensed facility. Since no site change is proposed, no loss will occur. Further, the technical statement shows that the substitution of Channel 266A for Channel 267A at Springfield, Florida, will enable WYOO to improve its facilities to a 6.0 kilowatt Class A facility by eliminating a short space on Channel 267A to WJN(FM), Dothan, Alabama. Presently, because of the short space, WYOO is licensed to operate with only 5.2 kilowatts with its antenna center of radiation at 72 meters above average terrain. As a maximum 6.0 kilowatt facility, WYOO could provide service to an additional 2,239 persons in 173.6 square kilometers over its currently licensed facility.

Option II -- Channel 268C1 at Woodville, Florida

As an alternative to Option I, Petitioner proposes the allotment of Channel 268C1 to Woodville, Florida, and the modification of the license of WXSJ to operate on Channel 268C1 at Woodville. The allocation is mutually exclusive with the present allocation of Channel 268C2 to Quincy, Florida, and the proposed allotment of Channel 268C2 to Woodville, Florida. Channel 268C1 can be allotted to Woodville at reference coordinates North Latitude 30° 03' 45", West Longitude 84° 24' 28". This represents a site restriction of 31.8 kilometers south-southwest of Woodville to avoid short spacing WHJX-FM, Channel 268C, Brunswick, Georgia. From this location, a 3.16 mV/m contour will be provided over Woodville, Florida. As shown above, the following substitutions must be made in order to accommodate WXSJ on Channel 268C1 at Woodville:

FM Table of Allotments

City	Channel No.	
	Present	Proposed
Woodville, Florida	None	268C1
Quincy, Florida	268C2	None ⁸
Monticello, Florida	270C3	289C3
Perry, Florida	288A	221A
Springfield, Florida	267A	266A
Appalachicola, Florida	265A	263C3 or 263A
Trenton, Florida	269C2	269A or 269C3

PUBLIC INTEREST FACTORS-OPTION II

The allotment of Channel 268C1 to Woodville, Florida, will provide that community with its first local radio service without depriving Quincy of its only full-time radio service. It will enable WXSJ to upgrade and allow for expanded service. As shown above, WXSJ operating as a Class C1 facility will provide 315,679 persons within 9,892.2 with 1 mV/m service. This is an increase of 24,064 persons in 1.649.5 square kilometers over its presently licensed facility. Further, the substitution of Channel 266A for Channel 267A at Springfield, Florida, will enable WYOO to improve to a 6.0 kilowatt Class A facility.

Continued Expression of Interest

It is Petitioner's first choice to upgrade WXSJ to Class C1. Petitioner, Great South Broadcasting, Inc., hereby reaffirms its expression of interest in reallocating Channel 268C1 to Quincy, Florida, or Channel 268C1 or Channel 268C2 to Woodville, Florida. If the Commission makes any of the allotments requested herein, Petitioner will, within the period afforded in the Report and Order allotting the channel, promptly file with the Commission an application for a minor change construction permit to modify the facilities of WXSJ as

⁸ Full time standard broadcast station WWSD will remain licensed to Quincy.

authorized, and upon grant of the application, Petitioner will construct and operate those modified facilities.

Reimbursement Commitment

Petitioner, Great South Broadcasting, Inc., hereby again represents that it will reimburse the licensee of WYOO(FM), Springfield, Florida for the costs involved in making the channel changes pursuant to the Commission's policy in *Circleville, Ohio, supra*. Out of an abundance of caution, if required by the Commission, Petitioner would also reimburse the licensee of WDJY(FM), Trenton, Florida, although Petitioner does not believe it is required to do so. Petitioner, likewise, does not believe any reimbursement of the licensee of WOYS, Appalachicola, Florida, is necessary since WOYS is awaiting grant of a "one-step" application (File No. BPH-940617IZ) that clears Channel 268C1 for use by WXSJ. However, on the condition that the application is not granted, Petitioner would reimburse the licensee of WOYS for the costs involved in making a change to an equivalent Class A channel. Petitioner has executed agreements with the licensees of WJPH(FM), Monticello, and WNFK(FM), Perry, Florida, for reimbursement, copies of which are a part of this record [See "Petition for Rule Making," filed April 6, 1995.] Under the policy set out in *Report and Order, Columbus, Nebraska, et al.*, 59 RR 2d 1184 (1986), the Commission permits up to two substitutions of channels where reimbursement agreements have not been obtained. Therefore, this Counterproposal complies with that policy since Petitioner will be required to reimburse only one other licensee (WYOO) with which it does not have an agreement.⁹

⁹ Petitioner is not counting either WDJY or WOYS as stations subject to channel changes for which no agreement has been obtained; however, if either were to be so counted, this Counterproposal would still comply with the policy. Even if the Commission deems that more than two licensees must be reimbursed, the special factors here involve significant

Request for Order to Show Cause

The Petitioner respectfully requests the Commission to issue to the licensees of WDJY and WYOO, pursuant to Title 47 C.F.R. § 1.87, Orders to Show Cause why the license of WYOO should not be modified as proposed herein and why Channel 269C2 should not be deleted from Trenton, Florida. (See, for example, **Order to Show Cause, Okmulgie, Oklahoma, et al.**, DA 95-1520, released July 17, 1995.)

Conclusion

Petitioner has shown that the proposals made herein would result in a preferential arrangement of allotments. The proposal set forth in the Petition for Rule Making would bring a first local service to Woodville, Florida, a goal favored under Priority (3) of **Revision of FM Assignment Policies and Procedures**, 90 FCC 2d 88, 92 (1982). Additionally:

- Adoption of Counterproposal Option I would permit WXSR to remain licensed to Quincy, Florida, while upgrading WXSR to Class C1 with an increase in areas and populations served.
- Adoption of Counterproposal Option II would permit an upgrade for WXSR while bringing first local service to Woodville.
- Adoption of Option I or Option II would permit WYOO to operate with maximum facilities, serving additional areas and populations.

public interest benefits that merit the full consideration of this proposal. Under such circumstances, the Commission has indicated it will still entertain such proposals. See ***Columbus, Nebraska, supra***, at ¶5. Here, the significant benefits of increased population coverage and first local service to Woodville far outweigh the minor burdens imposed on the stations changing channels, or the Commission's permitting the licensee of WDJY to continue to warehouse spectrum.

- Further, adoption of Option I or Option II would be a more efficient use of spectrum than permitting the licensee of WDJY, Trenton, Florida, to continue to "warehouse" spectrum that Petitioner seeks to utilize.

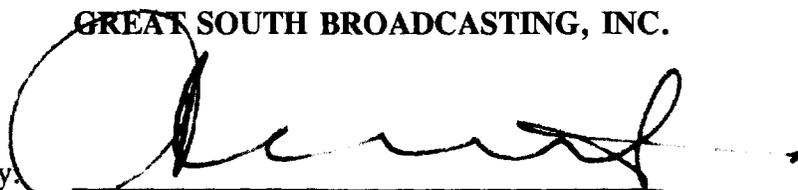
- As stated supra, Petitioner will reimburse the affected licensees for the costs involved in the channel substitutions. Within the time allotted after the effective date of the channel changes proposed, Petitioner will file an application for minor change construction permit to implement the channel changes, and upon grant thereof, will promptly construct the improved facilities thereon.

WHEREFORE, in view of the foregoing, Petitioner requests the Commission to adopt the proposals made herein.

Respectfully submitted,

GREAT SOUTH BROADCASTING, INC.

By.



Gary S. Smithwick
Its Attorney

SMITHWICK & BELENDIUK, P.C.

1990 M Street, N.W.
Suite 510
Washington, D.C. 20036
(202) 785-2800

August 10, 1995

WXSR/DLF/COMMENTS.810

EXHIBIT 1

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

COMMENTS AND COUNTERPROPOSAL
MM DOCKET #95-82
GREAT SOUTH BROADCASTING, INC.
WXR RADIO STATION
QUINCY/WOODVILLE, FLORIDA
August 1995

TECHNICAL EXHIBIT

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COMMENTS AND COUNTERPROPOSAL
MM DOCKET #95-82
GREAT SOUTH BROADCASTING, INC.
WXSJ RADIO STATION
QUINCY/WOODVILLE, FLORIDA
August 1995

TECHNICAL STATEMENT

1. This Technical Statement and attached exhibits were prepared on behalf of Great South Broadcasting, Inc. ("Great South"), licensee of station WXSJ, Channel 268C2, Quincy, Florida, and the petitioner in MM Docket #95-82. Great South herein submits its comments and a counterproposal in MM Docket #95-82.

BACKGROUND

2. Great South has requested the reallocation of Channel 268C2 from Quincy to Woodville, Florida, as that community's first locally licensed radio facility. The allocation of Channel 268C2 is mutually exclusive with the present allotment at Quincy, Florida. Woodville, Florida, is not located in an urbanized area. The removal of Channel 268C2 will not deprive Quincy of its only local full time service since station WWSD, 1230 kHz, will remain licensed to Quincy.¹

1) At the time Great South filed its petition for rule making an outstanding construction permit for station WTPS, Channel 264A, Quincy, Florida, was also considered "potential" service to Quincy. However, a Report and Order in MM Docket #93-229 ordered WTPS to Channel 264C3 and changed its community of license to Midway, Florida.

3. In order to accommodate the allocation of Channel 268C2 at Woodville, Great South requested the substitution of Channel 289C3 for Channel 270C3 at Monticello, Florida, and Channel 221A for Channel 288A at Perry, Florida. The two impacted licensees at Monticello (WJPH) and Perry (WNFK) have consented to the substitution of channels at their respective communities. Copies of the agreement between WJPH and WNFK have already been submitted to the Commission.

4. In the Notice of Proposed Rule Making, the Commission requested Great South to provide data relating to the number of persons and the area that would gain new service and also that would lose service as a result of the reallocation of the channel to Woodville. Further, the Commission requested the study include the number of existing reception services in the gain and loss areas.²

DISCUSSION

5. The reference site for Channel 268C2 at Woodville, Florida, was selected to place the proposed allocation as close to the community as possible in keeping with Commission allocation policy. Since this site was arbitrarily chosen, it is inappropriate to utilize this site for the purposes of an area and population gain/loss evaluation. Great South, upon the finalization of the order allotting Channel 268C2 to Woodville,

2) Paragraph #4, Notice of Proposed Rule Making, MM Docket #95-82, DA 95-1263, adopted June 7, 1995, released June 19, 1995.

would file FCC Form 301, to implement the change in community of license. This application would most likely propose the existing licensed WXSJ site for Channel 268C2 at Woodville, Florida. Therefore, no actual change of site would be necessary. As a result, no loss of service would result. See Exhibit #1 for a map which demonstrates WXSJ can provide city grade coverage of Woodville, Florida, from its presently licensed site.

6. The removal of Channel 268C2 at Quincy will not deprive the community of its only service since full time station WWSD, 1230 kHz, will be retained in Quincy. Further, as indicated in the previous paragraph, the residents of Quincy will continue to receive service from WXSJ, since no site relocation is necessary to implement the change of community of license. Therefore, the public expectation of continuing service from WXSJ is met.

COUNTERPROPOSAL - OPTION #1

7. Since the filing of its original request, Great South has been made aware of several events which potentially allow the retention of Channel 268 in Quincy, but as a C1 facility rather than a C2 facility. As will be demonstrated below Channel 268C1 can be allotted to Quincy with a site restriction of 47.6 kilometers south-southeast of the community. This allotment is possible with the proposed substitutions at Monticello and Perry, Florida, as detailed in the original petition for rule making.

In addition, other changes, as detailed below, are necessary. The allocation of Channel 268C1 to Quincy would allow for the retention of the channel in Quincy and an improvement to WXSJ.

8. WDJY, Channel 269A, Trenton, Florida, received an upgrade in MM Docket #93-118 to Class C2 on Channel 269. The licensee has failed to file the required FCC Form 301 to implement the upgrade within the 90 day period imposed in the Report and Order. Since this vacant allotment precludes a C1 upgrade for WXSJ, Great South, as detailed below, requests the deletion of the upgraded channel at Trenton, Florida. The licensee of station WOYS, Channel 265A, Apalachicola, Florida, has filed an application to upgrade to Channel 263C3 at Apalachicola.³ The removal of Channel 265A (Apalachicola) accommodates Channel 268C1 at Quincy, Florida.

9. Channel 268C1 can be allocated to Quincy, Florida, at reference coordinates North Latitude 30° 10' 22" and West Longitude 84° 26' 52".⁴ This represents a site restriction of 47.7 kilometers south-southeast of the community to avoid shortspacing several existing FM facilities.⁵ From the reference

- 3) The WOYS application at Apalachicola, Florida, was in conflict with the proposed allocation of Channel 263A at Panama, Florida. The Panama request was filed as a counterproposal in MM Docket #93-229. The proponent for Channel 263A withdrew its interest in the channel. A Report and Order in MM Docket #93-229, DA 95-1221, was released on June 9, 1995, and is now final. There is no other allocation preclusion to the WOYS upgrade.
- 4) The reference site for this channel appears to be located within the boundaries of the Apalachicola National Forest. However, there are private holdings within the boundaries denoted on this map. Further, a representative of Great South has contacted the local Park Ranger regarding the possibility of locating a tower in this area. The Ranger indicated it would be considered.
- 5) WYDA, Channel 269A, Graceville, Florida; WJNN, Channel 267A, Dothan, Alabama; WKAK, Channel 269A, Albany, Georgia; the vacant allotment of Channel 271A, Donalsonville, Georgia; WJAQ, Channel 265A, Marianna, Florida; and WTKX, Channel 268C1, Pensacola, Florida.

site, a 3.16 mV/m contour will be delivered over Quincy, Florida. Exhibit #2 is a usable area study for Channel 268C1 at Quincy. Exhibit #3 is a \$73.207 spacing study demonstrating Channel 268C1 at Quincy is adequately spaced to all other licensed, applied for or proposed facilities. Both exhibits assume Channel 289C3 is substituted for Channel 270C3 at Monticello, Florida; Channel 266A is substituted for Channel 267A at Springfield, Florida; Channel 263C3 (or Channel 263A) is substituted for Channel 265A at Apalachicola, Florida; and the vacant and unapplied Channel 269C2 is deleted from Trenton, Florida, all detailed below.

10. As indicated in Great South's original request, Channel 289C3 can be substituted for Channel 270C3 at Monticello, Florida, provided Channel 221A is substituted for Channel 288A at Perry, Florida. These two proposals are described in further detail in the original Great South filing and are incorporated herein by reference.

11. Channel 266A can be substituted for Channel 267A at Springfield, Florida. The reference site for Channel 266A is North Latitude 30° 12' 12" and West Longitude 85° 36' 57". This is the presently licensed site for WY00, Springfield, Florida. Springfield will continue to receive 3.16 mV/m service from WY00 on Channel 266A. Exhibit #4 is a \$73.207 spacing study which indicates Channel 266A at the WY00 site complies with the Commission's minimum distance separation requirements.

12. WOYS, Channel 265A, Apalachicola, Florida, is an impediment to the allocation of Channel 268C1 to Quincy, Florida. An application has been filed, pursuant to the one-step application process, to upgrade WOYS to a C3 facility on Channel 263. That application, File #BPH-940617IZ, is pending before the Commission.⁶ While it is Great South's hope the application will be granted, out of an abundance of caution, Great South herein requests that if Channel 263C3 is not allotted to Apalachicola then Channel 263A be substituted for Channel 265A at Apalachicola. Channel 263A can be allocated to Apalachicola at the present WOYS licensed transmitter site, coordinates North Latitude 29' 43' 57" and West Longitude 84' 53' 24". Exhibit #5 is a \$73,207 spacing study for Channel 263A at Apalachicola and verifies the channel meets the Commission's minimum distance separation requirements.

13. The vacant and unapplied for allocation of Channel 269C2 at Trenton, Florida, is a precluding factor for the allocation of Channel 268C1 at Quincy, Florida. As of this writing, no application for the improved channel has ever been filed by the licensee of WDJY (formerly WCWB). Therefore, Great South requests the deletion of Channel 269C2 at Trenton, Florida, and an amendment to the Table of FM Allotments at Trenton, Florida, to reflect Channel 269A in lieu of Channel 269C2.

6) See supra note 3.